

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 26, "Contested Case Proceedings," Iowa Administrative Code.

These amendments update, clarify and simplify the procedures in preparing for and participating in unemployment appeal hearings.

Notice of Intended Action for these amendments was published in the August 2, 2017, Iowa Administrative Bulletin as **ARC 3227C**. One comment was received and considered. The Notice was on the agenda at the Administrative Rules Review Committee (ARRC) meeting held on August 4, 2017. No questions or comments were received during this public meeting of the ARRC. These amendments are identical in substance to those published under Notice and are substantially similar in form. A minor change was made to correct the agency name in subrule 26.4(1).

This rule making does not have a fiscal impact on the State of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective November 1, 2017.

The following amendments are adopted.

ITEM 1. Amend subrule 26.4(1) as follows:

26.4(1) An unemployment benefits contested case is commenced with the filing, by mail, facsimile, or e-mail, online, or in person, of a written appeal by a party with the appeals bureau of the department. The appeal shall be addressed or delivered to: Appeals Bureau, ~~Department of Iowa Workforce Development~~, 1000 East Grand Avenue, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the Iowa workforce development Web site.

ITEM 2. Amend subrule 26.4(2), introductory paragraph, as follows:

26.4(2) An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at its last-known address and shall state the following:

ITEM 3. Amend subrule 26.4(5) as follows:

26.4(5) Appeals transmitted by facsimile, by e-mail, or online which are received by the appeals bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 4. Rescind rule 871—26.5(17A,96) and adopt the following new rule in lieu thereof:

871—26.5(17A,96) Commencement of employer liability contested case.

26.5(1) An employer liability contested case is commenced with the filing of a written appeal with the tax bureau of the department by mail, facsimile, or e-mail, online, or in person. The appeal shall be addressed or delivered to: Tax Bureau, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.5(2) An appeal from a decision of the tax bureau of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than 30 calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at the party's last-known address and shall set forth the following:

- a. The name, address, and Iowa employer account number of the employer;
- b. The name and title of the person filing the appeal;
- c. A reference to the decision from which the appeal is taken; and

d. The grounds upon which the appeal is based.

26.5(3) Appeals transmitted by facsimile, by e-mail, or online which are received by the tax bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 5. Amend paragraph **26.6(1)“a”** as follows:

a. The date, time and place of an in-person hearing, or the date and time of a telephone hearing, including instructions for ~~ealling~~ contacting the appeals bureau in advance of the hearing to provide the names and telephone numbers of all participants and witnesses; and

ITEM 6. Amend paragraph **26.14(1)“b”** as follows:

b. ~~All contested~~ Contested case hearings in which the department of workforce development is a party ~~shall~~ may be heard and decided by ~~a presiding officer who is~~ an administrative law judge employed by the division of administrative hearings of the department of inspections and appeals.

ITEM 7. Amend paragraph **26.14(1)“c”** as follows:

c. The department of workforce development is a party to ~~all~~ contested case hearings in which it is the employer. ~~it~~ The department of workforce development is a party to ~~those~~ contested case hearings involving issues of employer liability; and employee/independent contractor status; ~~fraudulent overpayment and administrative penalty in which it or any of its employees request the right to participate in the hearing by offering testimony and cross-examining witnesses for other parties that arise from decisions issued by the tax bureau.~~

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/27/17.